

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)	
)	
Revisions to Broadcast Auxiliary Service)	ET Docket No. 01-75
Rules in Part 74 and Conforming Technical)	
Rules for Broadcast Auxiliary Service, Cable)	
Television Relay Service and Fixed Services)	
In Parts 74, 78 and 101 of the Commission's)	
Rules)	

To: The Chief, Office of Engineering and Technology

**REPLY TO OPPOSITION TO THE
REQUEST FOR EXTENSION OF TEMPORARY STAY**

The Society of Broadcast Engineers, Incorporated (SBE), by counsel, hereby respectfully submits this reply to the Opposition to SBE's October 1, 2003 request that the Commission extend for a period of six (6) months the temporary stay granted April 15, 2003, with respect to the implementation of the Prior Coordination Notice (PCN) frequency coordination requirement for most fixed, point-to-point Broadcast Auxiliary Service (BAS) stations adopted in the *Report and Order*, FCC 02-298, 17 FCC Rcd. 22979, released November 13, 2002. The Opposition was filed by the National Spectrum Managers Association (NSMA) on or about October 7, 2003, with no certificate of service. It is unclear whether the NSMA Opposition was served on SBE, but to date, undersigned counsel did not receive a copy of it.

Nor did NSMA oppose the initial stay, granted by *Order*, DA 03-1141, by the Chief, Office of Engineering and Technology on April 15, 2003, and which is scheduled to expire October 16, 2003. In reply to NSMA's Opposition, and as additional support for

its request to extend this stay for a single additional six month period, SBE states as follows.

1. As SBE has noted, implicit in the new PCN approach for BAS frequency coordination is the assumption that the database is accurate. Frequency coordination under the PCN rules adopted in this proceeding cannot be successfully implemented because of legacy database inaccuracies in the ULS. The Commission has acknowledged this, and granted the stay for that reason.

2. NSMA argues that, “based on (its) experience”, the best means of remedying the substantially flawed database and SBE’s concerns about appropriate interference analysis is to proceed with notification and response procedures in the PCN process. They claim that the commercial coordinators that will be providing this service have an “abiding interest” in making sure the data on the subject path is accurate; and that, when other coordinators have information indicating the inaccuracy of the database, they will share it in the “response” part of the coordination process. They also argue that there is now no incentive to correct the database, and that there will be such an incentive when the broadcasters and other Part 74 licensees must respond to a PCN.

3. Finally, NSMA suggests that, to the extent that the Part 74 database is flawed due to missing path data, the PCN notices could go to all broadcast licensees in a market. It concludes by suggesting that a six month extension of the stay will provide no remedy.

4. With all due respect, the NSMA view is extremely naïve and fails to acknowledge or address the realities of the situation. NSMA’s experience with the Private Operational Fixed Service and Common Carrier microwave databases is not relevant to the problems that necessitate additional time to fix a substantially inaccurate

database. The POFS and CC databases are in far better shape than the BAS records in the ULS database. The problems with the database for Part 74 fixed links is due to two major factors, which must be fixed: (1) the legacy disconnect between the Mass Media Licensing database for Part 73 licenses and the ULS Part 74 database; and (2) of more importance, the fact that hundreds of licensees filed their applications on FCC's form 313, which did not require receive site coordinates or path azimuths.

5. NSMA suggests just going ahead with the process despite the absence of receive site information and path azimuth information, and despite the inaccuracies in the license information, relying on the "reply" portion of the PCN process. This will result in licensees not receiving PCNs and not being afforded the ability to reply. As the Commission noted in granting the stay in this proceeding initially, the database errors "could seriously affect the efficacy of prior coordination procedures, which was not anticipated when the Order setting these procedures were adopted."

6. Supposing that the coordinators might just send PCN notices to every broadcaster in a market, this places a massive and completely unfair burden on broadcasters to review and analyze each and every PCN mailing to see for itself whether the application will have an effect on their facility. That process is exactly backwards, and does not exist now under the procedures used by the Part 74 volunteer coordinators operating under the auspices of the SBE. The commercial coordinators must, under the PCN process, bear the burden of doing its homework first, and not to rely on protests to support its supposed coordination, based on a seriously flawed database, in order to set things right. If that is the case, the coordinator is providing no service at all, and is simply fishing in a murky pond. The present, local coordination procedures are far preferable

and have worked fine due to the volunteer Part 74 coordinators' familiarity with the market and the lack of reliance on the flawed ULS database.

7. If, after another six months' stay of the effective date here, the broadcasters' efforts to correct the database (which is flawed through no fault of their own) the database is still inaccurate to the extent that it is now, then the NSMA suggestion to proceed anyway might make some sense. As it stands today, SBE and state broadcasters' associations have done all they can to encourage the correction of the database. For the reasons stated in SBE's October 1, 2003 extension request, this effort has not had enough time to make a difference, and the Commission, frankly, has not helped the situation during that time. To now implement the new PCN rules, however, would be more than just a bit callous, and would lead inescapably to numerous instances of interference. NSMA's members may be interested in deriving substantial revenues from the new coordination procedures at broadcasters' expense, but there is ample time for them to exploit the new procedures using a database that has at least a fighting chance of making the procedures work.

For the foregoing reasons, SBE again respectfully requests the six-month extension of the temporary stay, which will be a final opportunity to bring the ULS database up to date and to supply missing information sufficient to allow the new PCN requirements a reasonable chance to work. The temporary stay on PCN coordination

regulations adopted in the *Report and Order* in this proceeding should be extended to and including April 15, 2004.

Respectfully submitted,

SOCIETY OF BROADCAST ENGINEERS, INC.

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